

Application No.: 10/695,157
Art Unit: 21321.00

Attorney Docket No. 21321.00
Confirmation No. 7145

REMARKS

By the present amendment, Applicant has amended Claims 1 through 16. Claims 1-16 remain pending in the present application. Claim 1 is an independent claim.

In the recent Office Action the Examiner rejected Claims 1-16 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant has amended the claims removing the improper Markush groupings, as noted by the Examiner. Applicant has also amended Claims 1-16 clarifying the limitations recited therein in order to remove the ambiguities observed by the Examiner. Applicant respectfully submits that Claims 1-16, as amended, meet the specific requirements of 35 U.S.C. § 112, second paragraph.

The Examiner rejected Claims 1, 3-7, and 10-16 under 35 U.S.C. 103(a) as being unpatentable over Hughey et al. in view of Lui. The Examiner rejected Claim 2 under 35 U.S.C. 103(a) as being unpatentable over Hughey et al. in view of Lui, and further in view of Carraway. The Examiner rejected Claims 8 and 9 under 35 U.S.C. 103(a) as being unpatentable over Hughey et al. in view of Lui, and further in view of Chen. These rejections are respectfully traversed.

Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

The applied prior art reference to Hughley et al. discloses an amusement device in the form of a living being and an associated paraphernalia item relating to a particular sporting activity. Hughley et al.

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does not disclose the indicia as recited in the originally presented, and now amended Claim 1. The Examiner alleges that Hughley et al. discloses indicia at element 416 of Fig. 8. Upon perusal of the description of Fig. 8, as well as the remainder of the Hughley et al. patent, the element 416 is a facsimile representation of a portion of a tennis ball (with respect to Fig. 8), or any other paraphernalia associated with a particular sporting activity. From the Hughley et al. reference, one having ordinary skill in the art would not have found it an obvious modification to substitute indicia for the portion of the facsimile paraphernalia. If Hughley et al. is modified to substitute indicia for the belly element 416 (i.e., a portion of a tennis ball), the device of Hugley et al. would be utterly destroyed by virtue of a gaping aperture in the removal of the belly element 416.

The secondary applied design patent references to Liu and Chen are also silent to this limitation. With respect to the rejections of Claims 1, and 3-16 by the alleged combinations of Hughley et al. in view of Liu, or Hughley et al. in view of Liu, and further in view of Chen, there is no guidance or motivation, aside from Applicant's own disclosure, that one having ordinary skill in the art would have found in these references to provide the indicia on the claimed stuffed rabbit.

With respect to Claim 2, the Examiner relies on the disclosure of the Carraway reference to provide a teaching of the indicia being a poem based on the activity portrayed by the rabbit and the equipment. Albeit, the Carraway teaches a stuffed toy having indicia thereon, the nature of the indicia is structurally and functionally different from the indicia as claimed. It is noted that the device of disclosed in Carraway provides for a 'blank slate' upon which individuals may inscribe messages to be read by a recipient. The

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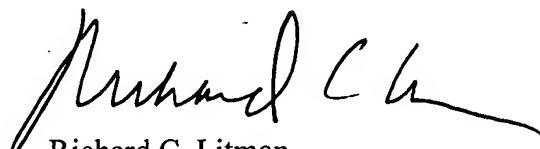
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method disclosed in Carraway sets forth that the messages are independently and individually inscribed. The messages are intended to provide a recipient with encouragement by acknowledging the recipient in personal prayers. The stuffed toy includes an implement for the individuals to write their independent messages. There is no guidance or motivation that one having ordinary skill in the art would have arrived at Applicant's claimed inventive feature of the indicia on the stuffed rabbit, as a poem directed to the specific activity portrayed by the rabbit and the equipment.

Reconsideration of the claims in light of the amendments and for the following reasons is respectfully requested. Applicant has amended the claims to more clearly define the invention in light of the Examiner's observations under 35 U.S.C. § 112, second paragraph. As such, independent Claim 1 clearly reflects the scope of Applicant's invention, and is not obvious within the meaning of 35 U.S.C. § 103.

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



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